IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3699 OF 2006

Shri.Pandharinath @ Uday Bhalchandra Bhagwat ..Applicant

Vs.

Shri.Prafulla Dattatraya Phadke & Ors. ..Respondents

...

Mr.Balkrishna Joshi counsel for Applicant
Mr.Iqbal Hussain counsel for Respondent Nos.1 and 2
Mr.D.P.Adsule A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : MARCH 5, 2007

P.C.

1. Heard the learned counsel for the applicant, learned counsel for the respondent nos.1 and 2 and the learned A.P.P. for the State.

2. When the applicant i.e. witness no.1 in C.C.No. 247 of 2004 was examined, he stated that the accused persons in furtherance of their common intention to create dispute between the applicant and his mother, wrote two letters dated 25.3.2003

and 10.6.2003 with intention to defame the applicant. The applicant filed xerox copies of the said letters. The learned Magistrate observed that exhibits are given to the xerox copies of these letters only for sequence and it is exclusively a clerical act. Thereafter, the applicant preferred an application for exhibiting the said letters for the purpose of reading in evidence. The learned Magistrate by order dated 18.9.2006 rejected the said application. The learned Magistrate observed that the decision of his learned predecessor of giving exhibits to those letters only for sequence and as clerical act, cannot be rectified by him. Hence, he rejected the said application. The revision preferred by the applicant was dismissed. Being aggrieved by these orders, this application has been preferred.

3. It is seen that the learned Magistrate has kept open the point of reading the letters in the evidence at the time of final arguments. Moreover, it is seen that the examination in chief of the applicant is still going on. In such case, it would be open to the applicant to get the contents of these two letters proved either by himself or

through his witnesses and if the said contents are proved, the contents can be read in evidence. Learned counsel for the respondent nos.1 and 2 states that he has no objection to this being done. In case, the applicant is able to prove the contents of the said letters, the same shall be read in evidence.

4. Application is disposed of.

[V.K.Tahilramani, J.]